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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,400	08/26/2000	Joseph A. Herman	403-8	7185

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Jonathan A Bay
333 Park Central East
Suite 314
Springfield, MO 65806

EXAMINER

BAYAT, BRADLEY B

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/649,400

Applicant(s)

HERMAN ET AL.

Examiner

Bradley Bayat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/26/2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z-9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claims 1-21 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kou, U.S. Patent 6,363,365 B1.

As per claim 1, Kou discloses a method of transacting a sealed bid competition over the Internet, comprising the steps of: providing a buyer that is intending to purchase by a sealed bid competition with computer-implemented means for originating a "request for bid" communication that includes bid data as well as a parameter of deadline (column 5, lines 45-55); providing a plurality of vendors with access to the "request for bid" communication by means of the Internet (column 5, lines 56-63); providing those vendors which choose to respond by the deadline with computer implemented means for responding with "response" communications containing substantive content presumptively responsive to the "request for bid" communication (column 5, lines 63-67); providing the buyer with access to the "response" communications by means of the Internet; and providing a deadline-integrity process such that either the buyer is precluded from access to at least the substantive content of the "response" communications until the lapse of some time determined from the deadline or the buyer's activity with accessing at

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least the substantive content of the "response" communications is logged so that such log record can thereafter disclose if the buyer voluntarily restrained itself from accessing at least the substantive content of the "response" communications until the lapse of some time determined from the deadline; whereby the integrity of the sealed bid competition as transacted over the Internet is upheld at least in part by said deadline-integrity process (column 6, lines 1-17).

As per claim 2, Kou discloses the method of claim 1, wherein: the deadline-integrity process comprises providing an intermediary Internet resource to which the responding vendors commit the "response" communications, such that the intermediary Internet resource can either (i) preclude the buyer's access to at least the substantive content of the "response" communications until the lapse of some time determined from the deadline or (ii) log the buyer's activity with at least the substantive content of the "response" communications so that such log record can thereafter disclose if the buyer voluntarily restrained itself from accessing at least the substantive content of the "response" communications until the lapse of some time determined from the deadline (fig 2, 3A and 3B and associated text re third party).

As per claim 3, Kou discloses the method of claim 2, wherein: the intermediary Internet resource comprises one or more Internet sites (fig 1 and associated text re third party authenticators).

As per claim 4, Kou discloses the method of claim 1, wherein: the computer-implemented means for responding includes encrypting the "response" communications such that decryption requires access to a specific decryption key; and the deadline-integrity process comprises providing a trusted party with said specific decryption key, such that said trusted party can either (i) preclude the buyer's access to said specific decryption key until the lapse of some

time determined from the deadline or (ii) log the buyer's activity with said specific decryption key so that such log record can thereafter disclose if the buyer voluntarily restrained itself from accessing said specific decryption key until the lapse of some time determined from the deadline (fig 2 and 3 and associated text re encryption/decryption).

As per claim 5, Kou discloses the method of claim 1, wherein: the trusted party comprises an intermediary Internet resource, which may include one or more Internet sites (fig 1 and associated text re third party authenticators).

As per claim 6, Kou discloses the method of claim 1, wherein: the computer-implemented means for responding includes encoding or compressing the "response" communications such that decoding or decompressing requires access to a specific decoding or decompressing object; and the deadline-integrity process comprises providing a trusted party with said decoding or decompressing object, such that said trusted party can either (i) preclude the buyer's access to said decoding or decompressing object until the lapse of some time determined from the deadline or (ii) log the buyer's activity with said decoding or decompressing object so that such log record can thereafter disclose if the buyer voluntarily restrained itself from accessing said decoding or decompressing object until the lapse of some time determined from the deadline (columns 6-8).

As per claim 7, Kou discloses the method of claim 6, wherein: decoding or decompressing objects can comprise any of passwords, algorithms, or hyper-link branches to an Internet address (column 2, line 28 – column 3, line 3).

As per claim 8, Kou discloses the method of claim 1, wherein: wherein the log record is committed to machines of the buyer's at the instance(s) of the buyer's accessing activities with

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respect to the "response" communications such that the log record is undesirably vulnerable to unauthorized deletion, corruption or other manipulation (column 5, lines 5-44).

As per claim 9, Kou discloses the method of claim 1, wherein: the "request for bid" communication is contained in one or more web pages (column 6, lines 20-26).

As per claim 10, Kou discloses the method of claim 1, wherein: the lapse of some time determined from the deadline means a time concurrent with or later than the deadline (column 3, lines 35-44).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kou, U.S. Patent 6,363,365 B1, in view of Harrington et al., U.S. Patent 6,161,099.

As per claims 11-21, Kou discloses a mechanism for secure tendering in an open electronic network wherein the requesting party cannot see the content of the bid proposals until the deadline is reached, the trusted third party cannot view the content of the bid proposals, and the vendors cannot view the proposals submitted by any other vendors (see abstract; column 4, lines 1-10). Kou does not teach the use of a public unsealing of bids or display of bid information to the web audience or in a "spreadsheet" format. Harrington et al. teaches a bidding mechanism that can display bidding information during or after the deadline of the bidding process (see column 1, lines 10-59; column 4, lines 33-67; column 5, lines 1-42; columns 7-8

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and associated figures). Harrington et al. is evidence that one of ordinary skill in the art would recognize the benefit of an actual real-time bidding display mechanism. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sealed individual bid mechanism to a web audience display mechanism, as per teachings of Harrington et al.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-U.S. Patent 6,182,124 B1, Lau et al., Token-Based Deadline Enforcement System for Electronic Document Submission.

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley Bayat whose telephone number is 703-305-8548. The examiner can normally be reached Tuesday thru Friday during regular business hours.

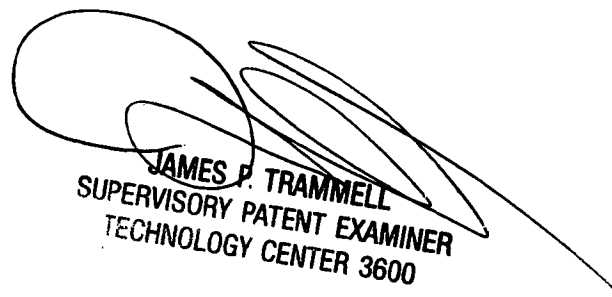
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-746-6128 for regular communications and 703-746-6128 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5484.

bbb
June 13, 2003


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Recent Statutory Changes to 35 U.S.C. § 102(e)

On November 2, 2002, President Bush signed the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215) (Pub. L. 107-273, 116 Stat. 1758 (2002)), which further amended 35 U.S.C. § 102(e), as revised by the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501 (1999)). The revised provisions in 35 U.S.C. § 102(e) are completely retroactive and effective immediately for all applications being examined or patents being reexamined. Until all of the Office's automated systems are updated to reflect the revised statute, citation to the revised statute in Office actions is provided by this attachment. This attachment also substitutes for any citation of the text of 35 U.S.C. § 102(e), if made, in the attached Office action.

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 prior to the amendment by the AIPA that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

For more information on revised 35 U.S.C. § 102(e) visit the USPTO website at www.uspto.gov or call the Office of Patent Legal Administration at (703) 305-1622.